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Legislative History – Montana Session Law

Chapter: 377 Session L: 1979

Bill Number: HB 642

Checklist of Bill History

History and Final Status Sheet ☐

Introduced Bill ☐

Fiscal Note ☐

Third Reading Bill ☐

Final Version of Bill ☐

House

Committee: Labor & Employment Relations

Hearing Date(s): 2/15/1979

Committee Report:

Senate

Committee: Labor & Employment Relations

Hearing Date(s): 3/9/1979

Committee Report:

Conference Committee

Hearing Date(s):

Conference Committee Report:

Compiler Notes

Compiled by: SK Marshall

Date: 04/25/2024

Notes:

HOUSE BILL NO. 642

INTRODUCED BY HARPER, STOBIE

IN THE HOUSE

February 8, 1979	Introduced and referred to Committee on Labor and Employment Relations.
February 15, 1979	Committee recommend bill do pass. Report adopted.
February 16, 1979	Second reading, do pass.
February 19, 1979	Considered correctly engrossed.
	Third reading, passed. Transmitted to second house.

IN THE SENATE

February 20, 1979	Introduced and referred to Committee on Labor and Employment Relations.
March 9, 1979	Committee recommend bill be concurred in as amended. Report adopted.
March 12, 1979	Second reading, concurred in.
March 15, 1979	Third reading, concurred in as amended.

IN THE HOUSE

March 16, 1979	Returned from second house. Concurred in as amended.
March 17, 1979	Second reading, amendments adopted.
March 19, 1979	Third reading, amendments adopted. Sent to enrolling. Reported correctly enrolled.

1 HOUSE BILL NO. 642
 2 INTRODUCED BY Thayer Stebbins
 3
 4 A BILL FOR AN ACT ENTITLED: "AN ACT TO PROHIBIT A FORMER
 5 STATE EMPLOYEE FROM CONTRACTING OR BEING EMPLOYED BY A
 6 CONTRACTOR WITH THE STATE FOR 6 MONTHS FOLLOWING THE
 7 TERMINATION OF HIS EMPLOYMENT; AND TO REMOVE THE EXCEPTION
 8 FOR PROFESSIONAL SERVICE CONTRACTS; AMENDING SECTION
 9 2-2-201, MCA."
 10

11 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:
 12 Section 1. Section 2-2-201, MCA, is amended to read:
 13 "2-2-201. Public officers ~~and employees and former~~
 14 ~~employees~~ not to have interest in contracts. Members of the
 15 legislature, state, county, city, town, or township officers
 16 or any deputy or employee thereof must not be interested in
 17 any contract made by them in their official capacity or by
 18 any body, agency, or board of which they are members or
 19 employees. A former employee may not, within 6 months
 20 following the termination of his employment, contract or be
 21 employed by a contractor with the state or any of its
 22 subdivisions involving matters with which he was directly
 23 involved during his employment. In this section the term:
 24 (1) "be interested in" does not include holding a
 25 minority interest in a corporation;

1 (2) "contract" does not include:
 2 (a) contracts awarded to the lowest responsible bidder
 3 based on competitive bidding procedures;
 4 (b) merchandise sold to the highest bidder at public
 5 auctions;
 6 (c) investments or deposits in financial institutions
 7 which are in the business of loaning or receiving money; or
 8 ~~(d) contracts for professional services.~~

-End-

1 House BILL NO. 642
2 INTRODUCED BY Hayes Stahri
3
4 A BILL FOR AN ACT ENTITLED: "AN ACT TO PROHIBIT A FORMER
5 STATE EMPLOYEE FROM CONTRACTING OR BEING EMPLOYED BY A
6 CONTRACTOR WITH THE STATE FOR 6 MONTHS FOLLOWING THE
7 TERMINATION OF HIS EMPLOYMENT; AND TO REMOVE THE EXCEPTION
8 FOR PROFESSIONAL SERVICE CONTRACTS; AMENDING SECTION
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23 involved during his employment. In this section the term:

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25 minority interest in a corporation;

1 (2) "contract" does not include:
2 (a) contracts awarded to the lowest responsible bidder
3 based on competitive bidding procedures;
4 (b) merchandise sold to the highest bidder at public
5 auctions;
6 (c) investments or deposits in financial institutions
7 which are in the business of loaning or receiving money; or
8 ~~(d) contracts for professional services"~~

-End-

HOUSE BILL NO. 642

INTRODUCED BY HARPER, STORIE

A BILL FOR AN ACT ENTITLED: "AN ACT TO PROHIBIT A FORMER STATE EMPLOYEE FROM CONTRACTING OR BEING EMPLOYED BY A CONTRACTOR WITH THE STATE FOR 6 MONTHS FOLLOWING THE TERMINATION OF HIS EMPLOYMENT; AND TO REMOVE THE EXCEPTION FOR PROFESSIONAL SERVICE CONTRACTS; AMENDING SECTION 2-2-201, MCA."

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

Section 1. Section 2-2-201, MCA, is amended to read:

"2-2-201. Public officers, and employees, and former employees not to have interest in contracts. Members of the legislature, state, county, city, town, or township officers or any deputy or employee thereof must not be interested in any contract made by them in their official capacity or by any body, agency, or board of which they are members or employees. ~~A former employee may not, within 6 months following the termination of his employment, contract or be employed by a contractor~~ AN EMPLOYER WHO CONTRACTS with the state or any of its subdivisions involving matters with which he was directly involved during his employment. In this section the term:

(1) "be interested in" does not include holding a

minority interest in a corporation;

(2) "contract" does not include:

(a) contracts awarded to the lowest responsible bidder based on competitive bidding procedures;

(b) merchandise sold to the highest bidder at public auctions;

(c) investments or deposits in financial institutions which are in the business of loaning or receiving money; or,

(d) --contracts-for-professional-services"

-End-

March 9, 1979

SENATE STANDING COMMITTEE REPORT
(Labor & Employment Relations)

That House Bill No. 642 be amended as follows:

1. Page 1, line 21.

Following: "by"

Strike: "a contractor"

Insert: "an employer who contracts"

FEBRUARY 15, 1979
PROCEEDINGS OF THE
LABOR AND EMPLOYMENT RELATIONS COMMITTEE

The meeting was called to order by Chairman Williams at 11:30 p.m. The secretary took roll. Reps. Ellerd, Fagg, O'Connell, Porter and Teague were absent.

HOUSE BILL 642: Rep. Harper, sponsor, said this bill would prohibit former state employees from contracting or being employed by a contractor with the state for 6 months following the termination of his employment. He said this has been a major problem in the past. He said this kind of thing has happened in the past and this bill would prevent it from happening in the future.

Proponent, Mike Meldahl, Office of Budget and Program Planning, said the bill does not prohibit these people from bidding on a job, and applies only to former employees.

There were no opponents. Questions were asked by the committee.

HOUSE BILL 671: Rep. Menahan, sponsor, was testifying at another hearing, so the bill was presented by Rep. Harrington. He said the bill would require that contractors and subcontractors of public works contracts provide their employees with a health and welfare program and a pension plan.

Proponent, Pat McKittrick, Joint Council of Teamsters, said there have been instances where a contractor has attained a bid and later it has been determined they have no health or welfare plan. This bill would require the employer to certify that he does have such a plan.

John St. Jermain said there have been several instances when a contractor did not have a health and welfare plan and the employee became seriously ill, and became a burden on welfare.

Terry Bass, Montana Contractors Association, said he came to oppose HB 671, but after talking to Pat McKittrick he understands the bill better and supports it. He said he thought the bill would be another burden to the contractor. He said his only concern is that if the bill passes and contractors are required to certify they do have a health, welfare, and pension plans, that it be done expeditiously.

Joe Crosswhite, Operating Engineers, and Joe Rossman, Montana Joint Council of Teamsters, urged the committee to recommend a DO PASS motion.

Gary Curtis, Department of Labor and Industry, said he was neither an opponent or proponent to the bill. He said the department had reviewed the bill and determined it would not cause them any additional problems or costs, and could be done expeditiously.

There were no opponents. Rep. Menahan closed.

EXECUTIVE SESSION

HOUSE BILL 672: Rep. Menahan, sponsor, asked the committee to table this bill. A motion was made by Rep. Stobie to TABLE HB 672. Motion carried unanimously.

HOUSE BILL 671: It was moved by Rep. Manning that HB 671 DO PASS. Motion carried 10-1. Rep. Stobie voted no.

HOUSE BILL 642: It was moved by Rep. Seifert that HB 642 DO PASS. Motion carried unanimously.

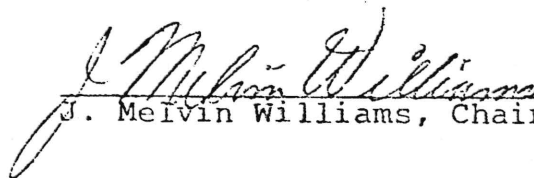
HOUSE BILL 636: Rep. Harper said he would like to work out some amendments to HB 636 and ask that it be held. Rep. Seifert made a motion that HB 636 DO NOT PASS. Rep. Manning made a substitute motion to hold HB 636 until the amendments were in place. Motion carried 8-3. Reps. Stobie, Seifert, and Underdal voted no.

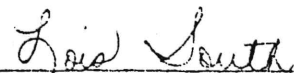
HOUSE BILL 527: Researcher, Karen Hedblom, reported back to the committee on HB 527. She said she had talked with Rep. South and he said that if the committee decides to pass the bill it will have to be amended because it does the opposite of what the Montana Education Association wants it to do. Rep. Dozier made a motion that HB 527 DO NOT PASS. Motion carried 9-2. Reps. Harper and Manning voted no.

HOUSE BILL 195: Rep. Manning said he had been asked by the sponsor to ask the committee to postpone the bill indefinitely. Rep. Manning made a motion that HB 195 be TABLED. Motion carried unanimously.

HOUSE BILL 54: Rep. Harper is working on amendments.

Meeting adjourned at 1:05 p.m.


J. Melvin Williams, Chairman


Lois South, Secretary

MINUTES OF THE MEETING
LABOR & EMPLOYMENT RELATIONS COMMITTEE
MONTANA STATE SENATE

March 8, 1979

The meeting of the Labor and Employment Relations Committee was called to order by Chairman Lowe on March 8, 1979, at 1:00 p.m. in Room 404 of the State Capitol.

ROLL CALL: All members were present with the exception of Senators Mehrens and Smith who were excused.

Chairman Lowe opened the hearing on House Bill #642 and asked Representative Hal Harper of District 30 to address the Committee. Representative Harper stated that this bill would prohibit a former state employee from contracting or being employed by the State for 6 months following the termination of his employment. Representative Harper stated that this bill would save the State a substantial amount of money as this practise was now going on in the State. Representative Harper also suggested that the Committee might want to amend the bill to make the State liable for such a practise instead of the employee. Representative Harper indicated that this bill did not apply to legislators or to competitive bids. Representative Harper then introduced Mr. Mike Meldahl of the Office of Budget and Program Planning to address the Committee.

Mr. Meldahl explained to the Committee that this bill only addressed itself to former employees of State Government. Mr. Meldahl cited an incident where a State employee terminated his employment with the State and after his termination signed a personal services contract with the State for \$400,000. He explained that this bill would make this type of hiring in State Government illegal.

Chairman Lowe then asked if there were any opponents to House Bill #642 to which there were none.

The Committee asked Mr. Harper if he would agree to an amendment changing the language on page 1, line 21, in order to make it read clearer to which Mr. Harper agreed. Chairman Lowe then asked Mr. Oppedahl, Legislative Council Attorney, to work on this amendment to which MR. Oppedahl offered the following to the Committee:

Page 1, line 21.

Strike: "a contractor"

Insert: "an employer who contracts"

Senator Dover then moved the amendment proposed by Mr. Oppedahl which carried unanimously. Senator Dover then moved the bill as amended which also carried unanimously. Senator Dover also agreed to carry the bill on the floor.

Chairman Lowe then asked the Committee to take executive action on the bills still remaining in the Committee.

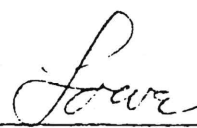
House Bill #378, Enforcement of Maternity Leave, was then discussed by the Committee. Senator Palmer moved to pass and a roll call vote was taken which is attached hereto. The bill passed 6 - 2 with Senator Smith's vote having been left before the meeting. Senator Dover agreed to carry this bill on the floor.

House Bill #302, Binding Arbitration for Firefighters, was then taken under consideration. Mr. Ray Blehm, Jr., representing the Montana State Firemen's Association, had previously proposed some amendments to this bill. The Committee discussed the amendments and Senator Dover moved the amendments which carried unanimously. Senator Palmer moved the bill and a roll call vote was taken and the bill passed as amended 7 - 2 with Senators Smith and Mehrens' votes received prior to the taking of the vote. The amendments on House Bill #302 are attached in the Standing Committee Report. Senator Blaylock will carry House Bill #302.

House Bill #349, Final Orders Concerning Unfair Labor Complaints be Issued within 6 Months, was then discussed by the Committee. Representative Anderson submitted an amendment which he had asked Mr. Oppedahl to present to the Committee changing the 6 months time limit to 5 months. Senator Severson moved the amendment which carried unanimously. Senator Nelson moved the bill as amended which carried unanimously. Senator Palmer agreed to carry this bill on the floor.

House Joint Resolution #24 was then taken into consideration by the Committee. Senator Palmer asked the Committee to postpone taking action on this resolution until he had a chance to study it further since he was absent during the testimony. The Committee agreed not to take executive action on this resolution at this time.

There being no further business, the meeting was adjourned at 2:15 p.m.



Senator William R. Lowe, Chairman

ROLL CALL

LABOR & EMPLOYMENT RELATIONS COMMITTEE

46TH LEGISLATIVE SESSION - - 1979

Date March 8, 1979

NAME	PRESENT	ABSENT	EXCUSED
HAROLD C. NELSON, VICE CHAIRMAN	✓		
GARY AKLESTAD	✓		
HAROLD L. DOVER	✓		
WILLIAM F. HAFFERMAN	✓		
JOHN (SANDY) MEHRENS			✓
BOB PALMER	✓		
ELMER D. SEVERSON	✓		
RICHARD G. SMITH			✓
BILL R. LOWE, CHAIRMAN	✓		

SENATE Labor & English COMMITTEE

BILL

VISITORS' REGISTER

DATE 3-8-79

[illegible]

3/6/79

Labors & Employment Relations Com.
H.B. 302 yes

HB 349 yes

HB 378 yes

Senator Richard Smith

STANDING COMMITTEE REPORT

March 8 19 79

MR. PRESIDENT:

We, your committee on LABOR & EMPLOYMENT RELATIONS

having had under consideration HOUSE Bill No. 302

Quilici (Elaylock)

Respectfully report as follows: That HOUSE Bill No. 302
third reading bill, be amended as follows:

1. Page 2.

Following: line 11

Insert: "(3) At the conclusion of the hearings the arbitrator shall
require the parties to submit their respective final position on
matters in dispute."

Renumber: subsequent subsections

2. Page 2, line 13.

Following: "determination of"

Strike: "the matters in dispute"

Insert: "which final position on matters in dispute will be adopted"

3. Page 2, line 17 through line 19.

Following: "arbitrator"

Strike: the remainder of line 17 through "and" on line 19

And, as so amended

BE CONCURRED IN

~~DO PASS~~

From the desk of Sen. "SANDY" MEHRENS
District 45

I note you are
H.B. 302

Mehrens

SENATE COMMITTEE LABOR & EMPLOYMENT RELATIONS

Date 3-8-79 Bill No. 302 Time 2:00

NAME	YES	NO
HAROLD C. NELSON, VICE CHAIRMAN		✓
GARY AKLESTAD		✓
HAROLD L. DOVER	✓	
WILLIAM F. HAFFERMAN	✓	
JOHN (SANDY) MEHRENS	✓	
BOB PALMER	✓	
ELMER D. SEVERSON	✓	
RICHARD G. SMITH	✓	
BILL R. LOWE, CHAIRMAN	✓	

L. V. Libore
Secretary

Low
Chairman

Motion: Do Pass, As Amended

(include enough information on motion--put with yellow copy of committee report.)

STANDING COMMITTEE REPORT

March 3

19 79

MR. PRESIDENT:

We, your committee on LABOR & EMPLOYMENT RELATIONS

having had under consideration HOUSE Bill No. 349

Anderson (Palmer)

Respectfully report as follows: That HOUSE Bill No. 349
third reading bill, be amended as follows:

1. Title, line 6.
Following: "WITHIN"
Strike: "6"
Insert: "5"

2. Page 3, line 5.
Following: "within"
Strike: "6"
Insert: "5"

And, as so amended
BE CONCURRED IN

DO-PASS

STANDING COMMITTEE REPORT

March 3 19 79

MR. PRESIDENT:

We, your committee on LABOR & EMPLOYMENT RELATIONS

having had under consideration HOUSE Bill No. 373

Manning (Dover)

Respectfully report as follows: That HOUSE Bill No. 378

BE CONCURRED IN
DO-PASSKY

SENATE COMMITTEE LABOR & EMPLOYMENT RELATIONS

Date 3-8-79

Bill No. 378

Time 1:45

NAME	YES	NO
HAROLD C. NELSON, VICE CHAIRMAN		✓
GARY AKLESTAD		✓
HAROLD L. DOVER	✓	
WILLIAM F. HAFFERMAN	✓	
JOHN (SANDY) MEHRENS		
BOB PALMER	✓	
ELMER D. SEVERSON	✓	
RICHARD G. SMITH	✓	
BILL R. LOWE, CHAIRMAN	✓	

L. V. LaBare
Secretary

Four
Chairman

Motion: Do Pass

(include enough information on motion--put with yellow copy of committee report.)

STANDING COMMITTEE REPORT

March 8 19 79

MR. PRESIDENT:

We, your committee on LABOR & EMPLOYMENT RELATIONS

having had under consideration HOUSE Bill No. 642

Harper (Dover)

Respectfully report as follows: That HOUSE Bill No. 642
third reading bill, be amended as follows:

1. Page 1, line 21.
Following: "by"
Strike: "a contractor"
Insert: "an employer who contracts"

And, as so amended
BE CONCURRED IN

DO PASS